IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 6926 of 2005

Between:

The Toddy Co-op. Society, Gopalpet (V) & Mandal,
Mahaboobnagar District., rep.by its President,
Sri. P.Buchannan Goud,S/o. Balaiah Goud, 50 years, occ:tapper,Gopalpet,V&M,
Medak district.

..... PETITIONER

AND

The Prohibition & Excise Superintendent, Mahaboobnagar Dist. at Mahaboobnagar.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondent in issuing proceedings No.B3/3231/2004, dt.01.12.2004 rejecting the application dt.18.10.2004, submitted by the petitioner society to send the second sample to an independent lab, as illegal, unlawful, arbitrary and against Rule-24 of A.P. Excise (Arrack and Toddy Licences General Conditions) Rule, 1969 and consequently direct the Respondent to consider the application to send the second sample to the independent lab and till the receipt of the report from the independent lab no coercive steps shall be taken by the respondent as against the petitioner society and pass such other orders.

Counsel for the Petitioner: MR.M.DAMODAR REDDY

Counsel for the Respondent: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following :

***ORAL ORDER*:**

Heard both sides. Perused the material placed before me.

The petitioner seeks a declaration that the action of the respondent in issuing proceedings No. B3/3231/2004 dated
1-12-2004, rejecting the application dated 18-10-2004 submitted by the petitioner to send second sample to a competent lab, as illegal and arbitrary.

At the outset, it is to be seen that as per the amendment brought out to Rule 24 of the A.P. Excise (Arrack and Toddy Licenses General Conditions) Rules, 1969 dated 12.11.2003, examination of the second sample by an independent lab can be sought for within seven days. This position is settled.

Having regard to the facts and circumstances of the case and in view of the above settled position of law, the proceedings issued by the respondent are set aside.

Accordingly, the writ petition is allowed at the stage of admission. The respondent is directed to send the second sample submitted by the petitioner to an independent lab and pending receipt of the report from the concerned, no coercive steps be taken against the petitioner. No costs.

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kvsn 07-04-2005

To

1. The Prohibition & Excise Superintendent, Mahaboobnagar Dist. at

Mahaboobnagar.

2. Two CCs to GP for Proh. & Excise, High Court buildings, Hyderabad.

3. To CD copies.